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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,243	11/20/2003	Thomas M. Sharples	STX-101-B	9925

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EXAMINER

MORROW, JASON S

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/718,243	Applicant(s) SHARPLES, THOMAS M.	
	Examiner Jason S. Morrow	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8, 10, 17, 19, 20, 24, 25, 28, 31, 33 is/are rejected.
- 7) ☒ Claim(s) 4-7, 9, 11-16, 18, 21-23, 26, 27, 29, 30 and 32 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/20/03</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION***Drawings***

1. The drawings are objected to because in figure 1, the lead line for the reference numeral "50" appears to be incorrect. In figure 2, there is no lead line for reference numeral 94. In figure 11, the reference numeral "180" appears to be inconsistent with the rest of the drawings and disclosure. It appears "180" should be changed to --174--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the channel extending below a plane

Art Unit: 3612

of the panel must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3612

In claim 1, lines 3 and 4, the phrase “at least one of side walls and a truck bed” is indefinite. It claims two non-equivalent structures in the alternative.

In claim 8, lines 2 and 3, the phrase “the second position is a variably selectable plurality of discrete second positions” is indefinite. It is unclear if one or a plurality of positions is being claimed by the phrase.

Claim 32 recites the limitation "the article" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 8, 10, 19, 20, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Rafi-Zadeh.

Re claim 1, Rafi-Zadeh discloses an article storage apparatus for a truck having side walls extending from a truck bed, the apparatus comprising storage compartment means (270), mountable to at least one of side walls and a truck bed, and means (287), coupled to the storage compartment means, for moving the storage compartment means between a first storage position with respect to the truck bed and a selectable second position elevated from the first position to allow easy access to an interior of the storage compartment means.

Art Unit: 3612

Re claim 2, pivot means (279) are provided for pivotally mounting the storage compartment means to a truck and to the moving means.

Re claim 3, the storage compartment means comprises a frame (287) and at least one storage compartment (273).

Re claim 8, the second position is a variably selectable plurality of discrete second Positions (there are many positions between the fully open position).

Re claim 10, the storage compartment means comprises a rigid, fixed storage compartment.

Re claim 19, a tonneau cover is pivotally connected to the storage compartment means and moveable from a first position overlaying the storage compartment means and a second position spaced from and opening the interior of the storage compartment means to access (see figure 19).

Re claim 20, article carrier means carried on the tonneau cover (see figure 19).

Re claim 25, the storage compartment means including a frame (287), at least one article compartment supported by the frame, and a tonneau cover (38) pivotally connected to the storage compartment means and moveable from a first position overlaying the storage compartment means and a second position spaced from and opening the storage compartment means to access.

The storage compartment has at least a bottom wall, at least one side wall, and an open top end formed by the at least one side wall.

7. Claims 28, 31, and 33 rejected under 35 U.S.C. 102(b) as being anticipated by McKneely.

Re claim 28, McKneely discloses a tonneau cover for a truck having side walls extending from a bed, the tonneau cover comprising at least one panel (11) pivotally disposed with respect to a truck bed and side wall of a truck for movement between a first position covering at least a portion of the truck bed and a second position angularly disposed from the truck bed to open at least a portion of the truck bed, and article carrier means (16) carried on the tonneau cover.

Re claim 31, the article carrier means comprises an open-ended channel (16) integrated with the panel.

Re claim 33, the at least one panel comprises a pair of panels (see figure 3) each individually pivotally mountable with respect to the truck bed.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 17 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rafi-Zadeh in view of McKneely.

Rafi-Zadeh discloses all the limitations of the claims, as applied above, except for a divider means, positionable within the storage compartment for dividing the interior of the storage compartment into at least two separate sections, each of the separate sections comprising separate storage compartment means.

Art Unit: 3612

McKneely teaches a divider means (45), positionable within a storage compartment for dividing the interior of the storage compartment into at least two separate sections, each of the separate sections comprising separate storage compartment means.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify an apparatus, such as that disclosed by Rafi-Zadeh, to have a divider means, positionable within the storage compartment for dividing the interior of the storage compartment into at least two separate sections, each of the separate sections comprising separate storage compartment means, as taught by McKneely, in order for the apparatus to hold smaller articles and keep them from shifting during travel.

Allowable Subject Matter

10. Claims 4-7, 9, 11-16, 18, 21-23, 26, 27, 29, 30, 32 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Crossman, Mack et al., Radstake, Moore, Blanton, and Myers et al. disclose vehicle storage apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (703) 305-7803. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

Art Unit: 3612

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 25, 2004

Jason S. Morrow
Examiner
Art Unit 3612


JASON MORROW
PRIMARY PATENT EXAMINER

9/29/04